

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17354
[Redacted] Petitioner.)	
)	DECISION
)	
)	

On April 18, 2003, the Sales, Use and Miscellaneous Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer). The Notice proposed additional use tax and interest in the total amount of \$51,537 for the period October 1, 2002 through October 31, 2002. The taxpayer filed a timely appeal and petition for redetermination on May 13, 2003.

In its petition the taxpayer requested a redetermination based on financial hardship. The Commission requested income statements and balance sheets as evidence of hardship. On August 11, 2003, the taxpayer provided information covering 1998 through August 2003. In both correspondence and telephone conversations, the taxpayer raised no dispute regarding the liability.

At the taxpayer's request, the Commission held an informal hearing on November 6, 2003. Discussed in that hearing were the business events that led up to and were subsequent to the purchase of the vehicle that is the subject of this deficiency. Additionally, there was discussion of the tax law as it applies to certain vehicles bought with the intention of interstate travel.

ANALYSIS OF FACTS

The taxpayer is a business based in Idaho and operates cranes in a multistate area under service contract to others. The taxpayer purchased a crane and registered it under the International Registration Plan (IRP). The purchase and sale of vehicles that qualify for and are registered IRP are not subject to sales or use tax.

Motor vehicles, used manufactured homes, vessels, all-terrain vehicles, trailers, off-road motorcycles and snowmobiles. -- There are exempted from the taxes imposed by this chapter: ...

(c) Sale or lease of motor vehicles with a maximum gross registered weight over twenty-six thousand (26,000) pounds, which shall be immediately registered under the international registration plan or similar proportional or pro rata registration system, whether or not base plated in Idaho, and the sale or lease of trailers which are part of a fleet of vehicles registered under such proportional or pro rata registration system when such vehicles and trailers are substantially used in interstate commerce. If such a motor vehicle or trailer is not substantially used in interstate commerce during any annual registration period under the international registration plan, it shall be deemed used in Idaho and subject to the use tax under section 63-3621, Idaho Code. For the purpose of this subsection, "substantially used in interstate commerce" means that the vehicles or trailers will be part of a fleet with a minimum of ten percent (10%) of the miles operated by the fleet accrued outside of Idaho in any annual registration period under the international registration plan. (Idaho Code §63-3622R, excerpted in pertinent part).

According to the Commission's auditor in this case, he told the taxpayer prior to October 2002 that removing the crane from the IRP would subject its use to a tax. In October of 2002, the taxpayer registered the vehicle as "full fee Idaho." At the time it ceased to be registered in the IRP, the vehicle's use in Idaho was subject to tax, as noted above in Idaho Code §63-3622R and in the statute noted below:

Imposition and rate of the use tax -- Exemptions. -- An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after July 1, 1965, for storage, use, or other consumption in this state at the rate of five percent (5%) of the value of the property....

(a) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax... (Idaho Code §63-3621, excerpted in pertinent part from the Idaho State Code effective in 2002.).

The Commission's auditor used an estimated value of the crane at the time the vehicle ceased to be registered under IRP to determine the amount subject to tax in the Notice of Deficiency Determination. The taxpayer provided this valuation during the audit fieldwork. During the hearing, the taxpayer cited attempts to sell the crane and what offers were made. The Commission decided that the offers more accurately reflected the crane's worth than did the amount of unpaid debt upon which the earlier valuation was determined. The Commission therefore reduces the tax owed to be in line with the revised valuation.

CONCLUSIONS

The purpose of this decision is to state the legal basis for the imposition of tax and interest. It is not a means for determining the ability of the taxpayer to pay the debt.

The Commission finds the addition of interest to the taxpayer's liability appropriate per Idaho Code § 63-3045. Interest on the revised tax owed has been updated to the present.

WHEREFORE, the Notice of Deficiency Determination dated April 18, 2003 is hereby MODIFIED, and as so modified is APPROVED, AFFIRMED and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following taxes and interest:

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$23,265	\$1,797	\$25,062

DEMAND for immediate payment is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.
